

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7434

SHELDON K. PEELER,

Petitioner - Appellant,

versus

E. RICHARD BAZZLE; JON E. OZMINT, Director,
South Carolina Department of Corrections;
HENRY D. MCMASTER, Attorney General for South
Carolina,

Respondents - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Columbia. Cameron McGowan Currie, District
Judge. (CA-03-2993)

Submitted: January 31, 2005

Decided: February 17, 2005

Before LUTTIG, WILLIAMS, and MOTZ, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Sheldon K. Peeler, Appellant Pro Se. Donald John Zelenka, Chief
Deputy Attorney General, John William McIntosh, Assistant Attorney
General, Columbia, South Carolina; John Benjamin Aplin, SOUTH
CAROLINA DEPARTMENT OF PROBATION, PAROLE & PARDON SERVICE,
Columbia, South Carolina, for Appellees.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Sheldon K. Peeler seeks to appeal the district court's order accepting the recommendation of the magistrate judge and dismissing without prejudice his petition filed under 28 U.S.C. § 2254 (2000)* for failure to exhaust state remedies. An appeal may not be taken from the final order in a § 2254 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). A prisoner satisfies this standard by demonstrating that reasonable jurists would find that his constitutional claims are debatable and that any dispositive procedural rulings by the district court are also debatable or wrong. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683 (4th Cir. 2001). We have independently reviewed the record and conclude that Peeler has not made the requisite showing.

Accordingly, we deny a certificate of appealability and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED

*We reject Peeler's claim that his petition, filed on a standard § 2254 form, should have been treated as a petition under 28 U.S.C. § 2241 (2000).